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| DISTRICT OF NEVADA | |
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5 UNITED STATES DISTRICT COURT
 6 DISTRICT OF NEVADA

8 DARREN CHAKER-DEL NERO,
 9 Plaintiff,
 10 v.
 11 NEVADA FEDERAL CREDIT
 12 UNION,
 13 Defendants.

Case No.: 2:06-cv-00008-JAD-EJY
**APPLICATION TO FILE UNDER
 SEAL**
**[CONDITIONALLY FILED UNDER
 SEAL]**

15
 16 COMES NOW PLAINTIFF and files this Application to Seal the
 17 attached Motion for Reconsideration as to the second sealing order this
 18 honorable court issued.

19 **I. GOOD CAUSE EXISTS TO SEAL PLAINTIFF'S MOTION FOR
 20 JUDICIAL NOTICE AND CHANGE OF ADDRESS.**

21 Here, Plaintiff provides this honorable court with a series of recent
 22 orders, many of which are sealed or have replaced Plaintiff's name with John
 23 Doe. Particularly, the attached motion for judicial notice includes,

24 **Exhibits A, B, C & G** are recently issued Orders issued by the United
 25 States Courts of Appeal for the Ninth Circuit granting identical motion
 26 brought before this honorable court which resulted in the sealing of the
 27 record and replacement of Plaintiff's name with John Doe. Exhibit G relates
 28

1 to the same case Exhibit B does, but was issued subsequent to a motion for
 2 reconsideration being filed.

3 **Exhibits D & E** are orders issued by the United States District Court,
 4 Northern Division of Illinois where each court sealed and redacted portions
 5 of the record. The two courts also replaced Defendant's name with John Doe.

6 **Exhibit F** is a recent order issued by Nevada District Court Judge
 7 James C. Mahan which directed the Clerk of the Court to seal the case and
 8 replace Plaintiff's name with John Doe.

9 **Exhibits H, I & J** are orders from the Southern District of California,
 10 issued by the Honorable Marilyn L. Huff who granted redaction of all
 11 personal information and replacing Plaintiff's name with John Doe.

12 **Exhibit K** is an order dated June 29, 2021 and issued by District Court
 13 Judge Vanessa D. Gilmore, Southern District of Texas. In that instance the
 14 court sealed the entirety of the court record.

15 **Exhibit M** is an order from the District of Arizona. In that case, Senior
 16 United States District Court Judge Roslyn O. Silver agreed that by allowing
 17 the court record to remain public would place Plaintiff "**at additional risk**
 18 **of harm**" and subsequently sealed the entire case¹. (emphasis added)

19 **Exhibit N** is an order issued by Magistrate Judge Daniel J. Albregts
 20 granted Plaintiff's motion redacting and replacing his name with John Doe.

21 **Exhibit O** is an order dated October 26, 2021 and issued by Senior
 22 United States District Court Jeffrey T. Miller, Southern District of California.
 23 In its sealed order, the court replaced Plaintiff's first name with John Doe in
 24 Case No. 98cv272 JM (POR).²

25 ¹ This sealed order reference to a "David Hunter" which is a sealed name Plaintiff
 26 obtained as a result of threats.

27 ² Although the order only directs the Clerk of the Court to redact his name from the
 28 record, which Plaintiff is grateful for, the record demonstrates other redactions were
 made concerning address and phone number information.

1 **Exhibit B** is an order signed by the District Court Judge Marilyn L.
 2 Huff, Southern District of California, on September 13, 2021. In that case the
 3 court replaced Plaintiff's name as John Doe in Case No. 05-CV-1797-H-AJB
 4 and redacted any personal information.³

5 **Exhibit C** is an order also dated September 13, 2021 issued by the
 6 Honorable Marilyn L. Huff in Case No. 05-cv-1714-H-LSP. The court agreed
 7 to redact reference to personal information and replace Plaintiff's name with
 8 John Doe.

9 **Exhibit D** is an order dated August 30, 2021 issued by the Hon. Lisa
 10 B. Fitzgerald, Appellate Commissioner for the United States Court of
 11 Appeals for the Ninth Circuit. The Ninth Circuit granted Plaintiff's motion to
 12 file his motion under seal in Case No. 00-56984. To date, the motion to seal
 13 has not been ruled on.

14 **Exhibit E** is an order signed by the Honorable Marilyn L. Huff, Case
 15 No 3:06-cv-00599-H-AJB where the court granted redaction of personal
 16 information and replacing Plaintiff's name with John Doe. his name from the
 17 docket and allow him to proceed under the pseudonym "John Doe." The court
 18 stated in part, Page 2, "The Ninth Circuit allows parties to proceed
 19 anonymously when the party's "need for anonymity" to avoid physical injury
 20 outweighs the "prejudice to the opposing party and the public's interest in
 21 knowing the party's identity." *Does I thru XXIII v. Advanced Textile Corp.*,
 22 214 F.3d 1058, 1067-68 (9th Cir. 2000). **That is the case here.** (See Doc.
 23 No. 16, Exs. A-C.) Additionally, redacting Plaintiff's name from the record
 24 would not prejudice any party because Plaintiff voluntarily dismissed the
 25 action over fifteen years ago. (Doc. No. 6.)."

26
 27
 28 ³ As defined by Civ. Proc. Code, § 367.3, subds. (a)(1)-(2).

1 **Exhibit F** is an order issued by Magistrate Judge Daniel J. Albregts,
2 District of Nevada, dated June 27, 2021. The court granted Plaintiff's motion.
3 sealing—for the Court to replace his name with "John Doe" and other
4 personal information. In the order, Page 5, the court states in part, "The
5 Court finds the Southern District of California's approach to Plaintiffs'
6 similar requests persuasive, although it does not find the need to take
7 judicial notice of the cases Plaintiff submitted in his motions to seal (ECF No.
8 17 and 19). motions to seal (ECF No. 17 and 19). While Plaintiff has not
9 provided sufficient reasons to seal his entire record, he has provided enough
10 for the Court to replace his address on the docket with his Safe at Home
11 address, to redact his address and email, and to replace his name with "John
12 Doe."

13 **Exhibit H** is an Order by the District Court for the Southern District
14 of California dated June 28, 2021 granting redaction of all personally
15 identifiable information and changing the Plaintiff's name to John Doe. The
16 court stated in part, "The Ninth Circuit allows parties to proceed
17 anonymously when the party's "need for anonymity" **to avoid physical**
18 **injury** outweighs the "prejudice to the opposing party and the public's
19 interest in knowing the party's identity." Does I thru XXIII v. Advanced
20 Textile Corp., 214 F.3d 1058, 1067-68 (9th Cir. 2000). **That is the case**
21 **here.**" (emphasis added)

22 **Exhibit I** is an order dated June 29, 2021 and issued by Distict Court
23 Judge Vanessa D. Gilmore, Southern District of Texas. In that instance the
24 court sealed the entirety of the court record.

25 **Exhibit J** is a June 8, 2021 Nevada state court order where it
26 acknowledged the right of a crime victim to anonymize himself in court
27
28

records after making specific findings plaintiff was in danger. The court sealed the entire case and replaced Plaintiff's name with John Doe.

Exhibit K is an order dated June 29, 2021 and issued by District Court Judge Vanessa D. Gilmore, Southern District of Texas. In that instance the court sealed the entirety of the court record.

Exhibit L is an order from the District of Arizona. In that case, Senior United States District Court Judge Roslyn O. Silver agreed that by allowing the court record to remain public would place Plaintiff “**at additional risk of harm**” and subsequently sealed the entire case⁴. (emphasis added)

10 **Exhibit M** is an order issued by former Chief Judge for the Southern
11 District of California and grants the redaction of personal information and
12 plaintiff's name. The order states in part, The Court GRANTS Petitioner's
13 request to take judicial notice of other orders relevant to Petitioner's motion.
14 (ECF No. 58, Exs. A-D.) The Court has considered Petitioner's motion to seal
15 records. The Court has also considered the related orders by the judges and
16 finds the reasoning persuasive. This Court agrees with Judge Miller's sound
17 decision in Case No. 98-cv-00272-JM-POR. (ECF No. 58, Ex. A.)”

These exhibits also reference to sealed records. Further, any argument disclosing the sealed orders or orders renaming Plaintiff as John Doe should be sealed as well since it discloses the contents of the underlying orders and the declaration attests that Plaintiff is John Doe.

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24 | P a g e

²⁸ ⁴ This sealed order reference to a “David Hunter” which is a sealed name Plaintiff obtained as a result of threats.

1 Additionally, this honorable court sealed the underlying ex parte
2 motion to seal records in this case too, which the attached motion makes
3 reference to⁵.

Further, Plaintiff provides this court with his updated address. Due to the realistic potential to physical harm to Plaintiff demonstrated in the initial motion and inclusion in the Safe at Home Program, Plaintiff requests his notice of his new address is not made part of the public record until the court rules on the underlying motion. If the court granted the underlying motion, the address would be redacted.

10 Since the Application to File Under Seal discloses the contents of the
11 attached motion reference to sealed records, Plaintiff requests the application
12 to file under seal, is filed under seal as well.

CONCLUSION

14 It is for the foregoing reasons Plaintiff respectfully request this
15 honorable court grant this motion and order the attached motion and the
16 instant application to be filed under seal.

DATED: February 17, 2022

Respectfully submitted,


Darren Chaker
Plaintiff

⁵ As it relates to each sealed record described here, “[S]o long as it remains under seal, all parties must refrain from filing anything not under seal that would disclose the sealed matter. (Rule 2.551(c).) (*H.B. Fuller Co. v. Doe* (2007) 151 Cal.App.4th 879, 889 [60 Cal.Rptr.3d 501].) 3-51 California Trial Guide § 51.23 (2017); see also, California Rules of Court, Rule 8.46(d)(9) and (f) prohibits a publicly filed document from disclosing matters in a sealed record.